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Convention on the Elimination of All Forms of Discrimination against Women

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Committee on the Elimination of Discrimination against Women

Views adopted by the Committee under article 7 (3) of the Optional Protocol, concerning communication No. 70/2014*,**

Communication submitted by:	F.F.M. (represented by counsel, Daniel Norrung)
Alleged victim:	The author
State party:	Denmark
Date of communication:	4 July 2014 (initial submission)
References:	Transmitted to the State party on 8 July 2014 (not issued in document form)
Date of adoption of views:	21 July 2017

* Adopted by the Committee at its sixty-seventh session (3-21 July 2017).

** The following members of the Committee took part in the consideration of the present communication: Gladys Acosta Vargas, Nicole Ameline, Magalys Arocha Dominguez, Gunnar Bergby, Naéla Gabr, Nahla Haidar, Ruth Halperin-Kaddari, Yoko Hayashi, Lilian Hofmeister, Ismat Jahan, Dalia Leinarte, Rosario Manalo, Lia Nadaraia, Bandana Rana, Patricia Schulz, Wenyan Song and Aicha Vall Verges.

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1.1 The author of the communication, dated 4 July 2014, is F.F.M, a Somali national born in 1987, who is a resident of Denmark. She claims that her deportation to Somalia by the State party would violate her rights under articles 1, 2, 3, 5 and 16 of the Convention on the Elimination of All Forms of Discrimination against Women. The Convention and its Optional Protocol entered into force for the State party in 1983 and 2000, respectively. The author is represented by counsel, Daniel Norrung.

1.2 The author's application for asylum was rejected by the Danish Immigration Service on 8 April 2014. The Refugee Appeals Board dismissed the appeal against that decision on 23 June. At the time of submitting her communication and request for interim measures, she was awaiting deportation. On 6 July, the Committee, acting through its Working Group on Communications, requested the State party to refrain from expelling the author to Somalia pending the consideration of her case by the Committee, pursuant to article 5 (1) of the Optional Protocol and rule 63 of the Committee's rules of procedure.

Facts submitted by the author

2.1 The author was born in the village of Jeerow, near Qoryooley, in southern Somalia. She lived there until November 2012. In 2010, the author fell in love and began a relationship with a man whom she met at the school they both attended. Around three or four months after beginning the relationship, her boyfriend's family found out. The family did not agree with the relationship since the author was from a lower clan. Because the man was the only male in the family, they did not want him to marry her and threatened to kill her. In late 2010 or early 2011, female members of the boyfriend's family came to the author's house, threw boiling water on her and stabbed her. She has scars on her arm, hand and knee from the incident and was stabbed in the arm, knee and temple. The attackers tried to stab her in the neck but did not succeed. As a result of the attack, the author was forced to leave the school that she had been attending in order to avoid her boyfriend's family out of fear of further violence.

2.2 In 2012, the author's father approached her regarding marriage to a wealthy member of Al-Shabaab. The author refused and secretly married her boyfriend on 9 November 2012. She destroyed the marriage certificate out of fear of being killed if the marriage were discovered. However, both families eventually found out. The author suffered increasing persecution from her husband's family, culminating in violent attacks at the family home on 13 and 16 November. The author was not present on either occasion. During the latter attack, the author's stepmother was murdered because she was mistaken for the author.[1] She was attacked from behind with a machete by the author's mother-in-law. Members of Al-Shabaab heard about the episode and publicly declared that the author should be punished in accordance with sharia for marrying against the will of her parents, and that she should be handed over to Al Shabaab.[2]

2.3 The author states that her paternal aunt told her that she must escape since the same thing had happened to another girl in the village. In that case, the girl had been stoned to death. That aunt and a cousin arranged for the author to escape by way of a truck delivering vegetables to Qoryooley on 20 November 2012; from there she travelled to Mogadishu. The author states that she had contact with her spouse on

[1] She claims that her stepmother was attacked from behind outside the home and was wearing the author's scarf at the time.

[2] The author did not see the flyers but claims that they were disseminated by Al-Shabaab to express condemnation of her behaviour. She had previously seen such flyers about other girls in the village.

one occasion after leaving Somalia, while she was in Turkey, and he informed her that her father had been kidnapped by Al-Shabaab because of her actions.

2.4 The author travelled using false identity documents by airplane from Mogadishu to Turkey and from there went to Greece by boat. She almost drowned after the boat capsized and still suffers from hearing problems linked to that event. After seven months in Greece, she flew to Denmark and sought asylum there the next day, on 2 August 2013.

2.5 The author's application for asylum was rejected by the Immigration Service based on the finding that her story lacked credibility and on the results of a language test indicating that she originated from northern Somalia, which contradicted her claim that she comes from southern Somalia. She argues that the language test was carried out by a Somalian from Mogadishu who did not have a background in linguistics, but in economics. In addition, she states that no known field studies have been carried out in Somalia since the 1980s, and that there have been a great number of displacements since then owing to political disturbances. The author draws attention to the very detailed information that she was able to give regarding her home village, none of which is refuted by the State party's authorities.

2.6 After her last interview with the Immigration Service, upon learning that her account was not deemed credible, the author contacted a girl whom she had met in Greece who was from her village. The girl helped her to establish contact with her former teacher, who provided her with a scanned copy of a certificate from the last year of school that the author had attended, which she provided to the Refugee Appeals Board to corroborate her statement regarding her village of origin.[3] The teacher also told the author that her father, whom the author knew had been kidnapped by Al-Shabaab, had been killed and that Al-Shabaab exercised great control over Jeerow. The teacher's contact details were provided to the Board, along with the e-mail itself, as were those of the girl who had put them in contact.

2.7 The author also made contact with a man from her village whom she had met in Copenhagen, and he provided his testimony to the Board. He stated that he was from Kismaayo, but had left there in the 1990s. He knew the author's father from having used the father's repair shop on a number of occasions in the mid-1980s when any of his family's lorries had broken down.[4]

2.8 The author further offered to have a medical examination to corroborate her account of the attacks that she had suffered at the hands of her husband's family. That offer was refused.

2.9 On 23 June 2014, the Board upheld the decision of the Immigration Service. The author was ordered to leave Denmark by 7 July 2015. The author states that she has exhausted domestic remedies.

Complaint

3.1 Under articles 1, 2, 3, 5 and 16 of the Convention and general recommendation No. 19 (1992) on violence against women, all States parties are under an obligation not to deport persons who are at risk of gender violence upon return to their countries of origin. The author states that she has explained to the immigration authorities that she was subjected to serious harm, including threats to her life from her husband's clan and Al-Shabaab militants. Nonetheless, the authorities have made no attempt to perform any investigation or to request medical information

[3] The email from the teacher and the certificate attached there were forwarded to the Board.

[4] The author claims that the State party mistook the villager's statement that he had met the author's father when he was 20 years old, thinking that he had said tha that was the age at which he left Somalia. This was the reason why his statement was deemed to not be credible.

from the asylum centre, nor did they have the author undergo a specialist examination that could clarify the nature and origin of her wounds and other medical impairments that would support her claims.

3.2 In addition, she claims that the Board rejected the request that, if asylum could not be granted based on the information available, the case be postponed so that there could be an investigation into the school certificate using the contact information provided for the author's teacher and the person who furnished the same to the author.

3.3 Consequently, the sparse medical record had to be requested by the author's counsel before the meeting with the Board and, notwithstanding the information contained therein that verified the author's hearing and heart problems[5] and her account of a violent attack, the Board rejected the claim with no further investigation. A thorough investigation based on the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol) would have provided a clear basis for a better evaluation of the author's credibility.

3.4 The author's counsel states that, although the violation of the provisions of the Convention was raised during the hearing of 23 June 2014, that fact was not mentioned in the decision of the Board.

3.5 The author therefore claims that, were she to be returned to Somalia, her life and health would be in danger owing to the risk of repeated attacks by her husband's family and clan and by Al-Shabaab, which controls many parts of southern Somalia. To return her would therefore constitute a violation of articles 1, 2, 3, 5 and 16 of the Convention. She also claims that her return would violate articles 3, 6 and 7 of the International Covenant on Civil and Political Rights given that her life and health would be in danger. She therefore claims that the State party erred in its assessment of her case by failing to take evidence into account and to seek clarification where doubts existed and has therefore not fulfilled its obligations under the Convention.

State party's observations on admissibility and the merits

4.1 On 8 January 2014, the State party submitted its observations on admissibility and the merits and also requested that the interim measures be lifted. The State party asserts that the author has failed to establish a prima facie case for the purposes of admissibility under article 4 (2) (c) of the Optional Protocol since it has not been sufficiently substantiated that the author would be exposed to a real, personal and foreseeable risk of serious forms of gender-based violence if she were returned to Somalia. The communication should therefore be dismissed as manifestly ill-founded. It claims that the communication should be found inadmissible for lack of substantiation or, if found admissible, should be found on the merits to lack substantiation that the author would face a risk of serious gender-based violence upon return to Somalia.

4.2 The State party refers to the fact that the author has claimed violations of not only the Convention, but also the International Covenant on Civil and Political Rights. Noting that the Committee does not have the competence to consider claims under the International Covenant, all claims in relation to it should be held to be

[5] The heart problems are mentioned in her interview with the Refugee Appeals Board as stemming from strikes to her heart that cause her pain and discomfort, especially in hot weather. She stated that she had a doctor's referral for this but no other information is provided. The hearing problems are stated to be from the boat capsizing off the coast of Greece.

inadmissible owing to their being incompatible with the provisions of the Convention, under article 4 (2) (b) of the Optional Protocol.

4.3 The State party refers to the decision of the Board of 23 June 2014, which stated that the author had failed to give a credible account of her reasons for leaving Somalia. The Board found that the applicant's grounds for asylum lacked inner logic and appeared to be fabricated. It stated that she had made inconsistent statements on essential points.

4.4 The Board noted that the author had not stated that she had been burned and stabbed by members of her husband's family until after the refusal of her asylum application. Even if it were to be considered fact that the author had injuries consistent with stabbing and burning, the Board found that it had not been rendered probable that any such injuries were attributable to such an assault.

4.5 Furthermore, the author had failed to make a convincing statement as to the purpose of her secret marriage, given that she had stated that she and her husband had been afraid to announce their marriage publicly and that she had destroyed her marriage certificate for that reason.

4.6 Moreover, the Board emphasized the outcome of the language analysis test, which found with certainty that the author's speech was inconsistent with the linguistic community of the village that she stated was her place of origin. Based on that conclusion and the author's overall lack of credibility, the Board found that the author had failed to render probable that she was from Jeerow.

4.7 The Board stated in its decision that the copy of the examination certificate produced by the author could not have led to a different result. The Board also found that an examination of a statement of the witness who indicated that he knew a person in 1988 with the same name as the author's father (a name that is common in Somalia), could not have led to a different assessment.

4.8 The State party further provides a comprehensive description of the organization, composition, duties, prerogatives and jurisdiction of the Board and the guarantees for asylum seekers, including legal representation, the presence of an interpreter and the possibility for an asylum seeker to make a statement on appeal. It also notes that the Board has a comprehensive collection of general background material on the situation in the countries from which Denmark receives asylum seekers, updated and supplemented on a continuous basis from various recognized sources, all of which it takes into consideration when assessing cases.

4.9 In reference to the author's submissions, the State party submits that the author has made no observations claiming that the State party has violated provisions of the Convention during the processing of the author's case in Denmark. Instead, the communication concerns only the circumstances that the author risks encountering if returned to Somalia. Therefore, it is the State party's position that the author is relying on the Convention only in an extraterritorial capacity. In *M.N.N. v Denmark*,[6] the Committee commented on the extraterritorial effect of the Convention. The State party quotes the Committee as having said in that case that a State party would violate the provisions of the Convention if it sent a person back to another State in circumstances in which it was foreseeable that serious gender-based violence could occur. The State party therefore submits that the Convention has extraterritorial effect only where the author will be exposed to a real, personal and foreseeable risk of serious forms of gender-based violence. It states that it is

[6] See communication No. 33/2011, *M.N.N. v. Demark*, decision of inadmissibility adopted on 15 July 2013.

moreover a requirement that the necessary and foreseeable consequence is that the person's rights under the Convention would be violated in another jurisdiction.

4.10 Regarding the credibility assessment, the State party refers to the statement made by the author at the Board hearing on 23 June 2014 that her husband's family violently attacked her at her home in 2010. The State party notes that she did not make a statement to that effect on her asylum application form of 6 August 2013, in her screening interview on 28 August 2013 or during the substantive interviews on either 16 January or 1 April 2014. On the contrary, in those interviews she consistently stated that she had not been at home when her husband's family tried to contact her there. She also failed to put forth a reasonable explanation for this delayed revelation. Therefore, regardless of whether the author has scars consistent with stabbing and burning, she had not rendered probable that those were caused by an attack by her husband's family.

4.11 The State party reiterated the Board's emphasis on the fact that the author had not been able to provide a convincing explanation as to the purpose of marrying her spouse secretly, claiming that they dared not announce the marriage and had torn up the marriage certificate.

4.12 Furthermore, the State party relies on the results of the language analysis test, requested by the Danish Immigration Service, which it submits shows with certainty the inconsistency with the author's stated linguistic community. The analysis places the author's origin in northern Somalia. The State party further notes that the author has not pointed out any specific errors or omissions in the language analysis results. The report clearly shows its methodology and was prepared by a linguist in collaboration with an analyst. The analyst was born and raised in Mogadishu, in southern Somalia. The State party asserts that more general considerations about language analysis could not lead to a different assessment. The State party also observes that, as the Board expressly stated, the report was one of a number of elements taken into consideration when assessing the evidence in the case.

4.13 The State party refers to the author's response when presented with the conclusion of the language analysis. She stated that she had never been to northern Somalia and that, in her journey spanning nine months from Somalia to Denmark, she had stayed with a number of Somalis who had spoken different dialects, which might have influenced her. She had no other explanation and insisted that she was from Jeerow.

4.14 It follows from the foregoing that the Board was not able to accept as fact the author's statements regarding her grounds for asylum or her home region of Somalia. Nor did the Board find that the examination certificate, which the author produced only immediately before the hearing on 23 June 2014, or the statement given by a witness heard at the same hearing, who stated that he had known the author's father in the 1980s, led to a different assessment. The State party notes that none of this evidence was presented in support of her application before the Danish Immigration Service. Instead, the author had claimed that she had had no contact with anyone from her country of origin since her arrival in Europe, except for a single conversation with her spouse on 26 November 2012 while in Turkey. She had stated that her boat had capsized on the way to Greece and she had lost all her phone numbers and contact information for family members.

4.15 Regarding the author's account of the appearance of the examination certificate dated 28 August 2010, which was submitted by way of a brief from the author's counsel before the Board hearing of 13 June 2014, the author stated that, while in Greece, she had come into contact with a girl from her village in Somalia. The girl heard about the author from some acquaintances who learned that they both were from Jeerow. The girl helped the author to establish contact with her former

teacher. The teacher told the author that her father had been killed by Al-Shabaab. The contact details of the teacher and the girl were provided to the Board. The State party observes in that respect that the information provided to the Committee on 4 July 2014 was not consistent with the information provided to the Danish Immigration Service about not having had any contact with anyone from her home village. The State party further submits that that information does not seem credible.

4.16 Regarding the witness, the State party observes that it appears from brief of the author's counsel that the author met the witness at a meeting place for Somalis in Copenhagen, that he was from Kismaayo, which he had left in the 1990s, and that he knew her father because his vehicles had been repaired at the repair shop owned by her father in Jeerow in the 1980s. He stated that his family had used the repair shop many times even though it was located 300 km from Kismaayo since it was known to do a good job. He stated that he had last seen the author's father in 1987 and 1988. The State party found that particular emphasis could not be given to that account, which it found to be limited and sketchy, given that it appeared to be a pleading in support of the author's case. The State party refers to the statement made by the author's counsel that the State party had misunderstood the statement of the witness regarding his age at the time that he left Somalia. Notwithstanding that possibility, the State party observed that, since the witness statement had been taken into account in the overall assessment of the author's credibility, it could not have led to a different assessment.

4.17 The State party agrees with the Board's assessment and submits that the fact that the author was able to answer questions about the village of Jeerow, including its location in the region of Shabelle Hoose, in southern Somalia, its size, shopping facilities and the crops grown in the village, does not prove that she comes from the village.

4.18 Therefore, regarding the above and based on an overall assessment of the author's evidence and the witness in comparison with the other information in the case, including the language report and background information available, the Board found that the details provided by the author on her grounds for asylum and her place of origin in Somalia could not be accepted as facts. The State party endorses the Board's assessment.

4.19 Based on the Board decision of 23 June 2014, it appears that the Board, which is a quasi-judicial body, thoroughly assessed the author's claim for asylum in accordance with its ordinary procedures. The author was allowed to state her views orally. The Board therefore had the opportunity to see, hear and assess the demeanour of the author and found, based on the information available, that the author had failed to substantiate her claim for asylum and had not substantiated that she came from a village in southern Somalia.

4.20 The State party reiterates that, in her communication of 4 July 2014 to the Committee, the author failed to provide any new specific information about her situation. It is the State party's position that, in fact, the author merely disagrees with the credibility assessment and has failed to identify any irregularity in the decision-making process or any factors that the Board failed to take into account. The State party therefore submits that the author is attempting to use the Committee as an appellate body in order to have the factual circumstances of her claim for asylum re-examined. The State party submits that the Committee must give considerable weight to the facts found by the Board, which is better placed to assess the factual circumstances in the case. The State party draws the Committee's attention in this respect to a decision of the European Court of Human Rights in

R.C. v. Sweden[7] in which the Court accepted that national authorities are best placed to assess not just the facts but also the credibility of the witnesses, whom they have the opportunity to see, hear and assess the demeanour of. That determination was also reiterated in the Court's decision in *M.E. v. Sweden*.[8]

4.21 Therefore, in the view of the State party, there is no basis for doubting, let alone setting aside, the assessment made by the Board, according to which the author has failed to sufficiently substantiate that there are substantial grounds for believing that she would be subjected to persecution or asylum-relevant abuse if she were returned to Somalia. The State party accordingly submits that it would not constitute a breach of article 1, 2, 3, 5 or 16 of the Convention, the Committee's general recommendation No. 19 or article 7 of the International Covenant on Civil and Political Rights to return the author to Somalia.

4.22 In conclusion, the State party asserts that the author has failed to establish a prima facie case for the purposes of admissibility of the communication under article 4 (2) (c) of the Optional Protocol and therefore submits that the communication is manifestly ill-founded and should be found inadmissible. Furthermore, those parts of the communication referring to the provisions of the International Covenant should be considered inadmissible as being incompatible with the provisions of the Convention under article 4 (2) (b) of the Optional Protocol. Should the Committee find the communication admissible, the State party further submits that it has not been established that there are substantial grounds for believing that it would constitute a violation of the Convention to return the author to Somalia.

Author's comments on the State party's observations on admissibility and the merits

5.1 On 17 August 2015, the author submitted her comments on the State party's observations, including responses to the Committee's request for clarification.

5.2 The author reiterated her position that the communication should be found admissible and that to return her to Somalia would breach the State party's obligations under articles 1, 2, 3, 5 and 16 of the Convention and the Committee's general recommendation No. 19.

5.3 The author refers the Committee to the detailed account of her background in the translation of her asylum proceedings provided by the State party, which includes a description of her homestead in Somalia, her father's occupation, her marriage and segments on her clan's history.

5.4 Regarding her husband, she states that she has not seen him since leaving Mogadishu, where she had stayed with an agent before her departure. Her husband could not join her on the trip because the agent had a fake passport for a woman only. Her husband insisted that she leave without him. She spoke to him once more from Turkey by telephone. That is when she found out that her father had been kidnapped by Al-Shabaab.

5.5 Regarding the incident in late 2010 or early 2011, when she was attacked at home, she submits that her husband's mother, two sisters and one female cousin came and attacked her while she was making tea over a fire. She was attacked with a stick and a knife from all sides. Her mother-in-law cut her with the knife, from which she has scars on her right hand and elbow. She was beaten with a rod all over

[7] See European Court of Human Rights, *R.C. v. Sweden*, application No. 41827/07, judgment of 9 March 2010, para. 52.

[8] See European Court of Human Rights, *M.E. v. Sweden*, application No. 71398/12, judgment of 26 June 2014, para. 78.

her body and she still has a scar over her eye from it. During that attack, boiling water was thrown at her, from which she has burns on her right hand, arm and leg. She was also hit with burning firewood, which hit her left leg and the area under her left breast. She was treated with natural medicine. Owing to the state of anarchy in southern Somalia, it was not possible to make a complaint to the police. In the Danish immigration system, only injuries currently requiring treatment receive attention. However, the skin problems related to the scalding did require treatment that was initiated by physiotherapists.[9] The scars are plainly visible, however, and it is the author's position that if there were any question as to their origin, a full medical examination by specialists for signs of torture should have been undertaken.

5.6 Concerning the attack on 13 November 2012, there is no documentation or police report available. Since the author was not present, she can only offer the account of it relayed to her. Regarding the attack on 16 November 2012, during which her stepmother was killed, she was not present then also and again there was no police report. Owing to the anarchy in southern Somalia, police reports and death certificates are not available. Although she does not have any of the flyers that were passed out by Al-Shabaab and was merely informed of their existence, she has seen them previously distributed about other girls. The author explains that the only authorities in her home area, besides Al-Shabaab, are the elders of the village. The council of elders was formerly regarded to be an authority. During the Al-Shabaab regime, older people were also used to keep order locally. This is why neighbours attempted to negotiate in the incidents of which they became aware. For that reason, the author's situation is well known in her village, and she has urged the Board to investigate further, using the school certificate and her teacher's telephone number. None of these avenues were pursued by the Danish authorities.

5.7 Clarifying her stay in Greece and Turkey, the author states that she flew from Mogadishu to Turkey on a false passport in November 2012. From Turkey, she travelled by boat to Greece in December 2012. She refers to details in the translated exhibit provided by the State party.

5.8 As to the State party's observations, the author's counsel wishes the Committee to note that the Board is a quasi-judicial body against which there is no right of appeal in national courts under the Aliens Act. It is submitted that the Board is not a court and lacks the attributes of a court, including its holding of closed sessions and one of its members being appointed by, and usually an employee of, the Ministry of Justice. Furthermore, there is no educational requirement for the interpreters used during the asylum process, no requirement for trained interpreters to be used as a priority when available, and no recordings of interviews are kept.

5.9 In response to the State party's observations, the author asserts that she has established a prima facie case for the purposes of submitting her case to the Committee. She agrees that the application is extraterritorial and that it must be shown that she would be exposed to a real, personal and foreseeable risk of serious forms of gender-based violence if returned to Somalia. In reference to the claims made with respect to the International Covenant on Civil and Political Rights, the author understands that these cannot be addressed before the Committee but asks that they be regarded as supplementary comments allowing for a full understanding of her situation.

5.10 In relation to the State party's observation that no new evidence has been adduced before the Committee, the author argues that sufficient information was presented to the Board for her to be found to be in need of protection as a refugee and, therefore, no new evidence need be produced. Furthermore, if the State party

[9] A referral by the Danish Red Cross for such treatment was attached to the author's comments.

deemed further information to be necessary, it should have conducted the requested investigations as mentioned above. She had requested a medical exam and that a specialist examine her school certificate to establish its probative value and confirm her origin.

5.11 Specifically regarding the language analysis, the linguist carrying out the test is a native Swedish speaker with an excellent command of English but speaks no Somali. The analyst speaks Somali as a mother tongue, was born in Mogadishu and has a degree in economics, but no education in linguistics. No information was provided as to whether the analyst has ever visited the Shabelle Hoose region where the author comes from. The use of such analysts has been criticized in the Scandinavian media. The author's counsel provides a link to a documentary in which a girl from southern Somalia had been incorrectly determined to come from northern Somalia in a similar test.[10] The professor of linguistics in the clip characterizes the conclusion reached by the analyst as unprofessional and wrong. Given that the State party claim that that was only one element of the decision-making process, other investigatory tests should have been undertaken, as mentioned above.

5.12 In connection with the State party's observation that the author had failed to mention in earlier interviews the attack that she suffered in late 2010 or early 2011, the author states that she initially focused on her immediate reasons for escaping, that being the attacks in 2012, thinking that her case was obvious. She was also still suffering from the psychological and physical effects of having to leave her husband and nearly drowning off the coast of Greece, which gave rise to her hearing problems. She submits that, while any lack of consistency can be attributed to her medical condition, her overall statements have been very consistent. The author refers to the very detailed submissions given at her immigration interviews as provided in translation by the State party. Of all her submissions, the State party points out only three minor divergences, which are all plausibly addressed in the brief of the author's counsel to the Board.

5.13 With respect to the State party's finding that it is peculiar that the author did not produce more evidence until the Board hearing, she had thought that her case was clear and that the scars on her body were living evidence of her ordeal. Moreover, during the processing of the matter before the Danish Immigration Service, she had not yet met anyone from her village who could help her to contact someone there. Therefore, it was the State party that had neglected its duty to properly examine the author and investigate her case.

5.14 The author submits that she would be at high risk of losing her life or being exposed to serious harm if returned to Somalia and that doing so would constitute a violation of the State party's obligations under the Convention.

State party's observations on the author's comments

6.1 Outlining the foregoing observations and comments, the State party reiterates that the author's communication derives from her disagreement with the assessment of her credibility made by the Board. It reasserts that the author is attempting to have the factual circumstances of her claim reassessed and that she has failed to identify any irregularity in the decision-making process or any risk factors that the Board had failed to take into account.

6.2 With respect to the charge that the State party should have carried out a medical examination of the author, the State party explains that such examinations are undertaken on an ad hoc basis. Where it is accepted that torture occurred but is

[10] Available from www.youtube.com/watch?v=QuLzt3iUeRo (in Swedish).

not thought to be a risk in the future, such an assessment is not undertaken. Where the asylum seeker has appeared to not be credible during the proceedings and there is a basis upon which to dismiss the claim of torture in its entirety, examinations are similarly not conducted. In the author's case, according to the Board's decision, the circumstances under which the scarring was claimed to have occurred are not accepted as fact. Therefore, an examination of the body for signs of torture would not contribute any information on the circumstances under which the scarring occurred.

6.3 Regarding the authenticity of documents, the State party submits that, when determining whether to request a verification of documents, the Board makes an overall assessment of, inter alia, the nature and content of the documents, in conjunction with the prospect of whether such verification could lead to a different assessment of the evidence, the timing and circumstances of the production of the documents, and the credibility of the asylum seeker's statement in the light of the background information available. It is under no obligation to do so. In the author's case, the Board found no reason to request verification. It appears from the decision of the Board that the examination certificate could not independently lead to a different assessment of the author's claim that she was originally from Jeerow. The State party refers to a case before the European Court of Human Rights in which no verification of the authenticity of such documents had been requested by the Swedish authorities. In that case, the Court noted that the applications and documents submitted in support of their claim were deemed to not be credible, noting the timing of the documents' production and doubts about their authenticity. The Court found no reason to disagree with the State party's authorities that the authors' allegations had not been substantiated.[11]

6.4 In relation to the author's assertion regarding the activities of the Board, in particular the engagement of interpreters, the State party reiterates that no errors or omissions in translation during the proceedings have been pointed out by the author, nor have objections been made against the interpreters used. As to the reports of the screening interview on 28 August 2013 and the substantive interviews of 16 January and 1 April 2014, the author affirmed that she had understood and accepted the contents of all three reports and had made no comments on, or corrections to, those reports. Referring to a case decided by the Human Rights Committee, *K. v. Denmark*,[12] the State party noted that, beyond general statements regarding the lack of guarantees in proceedings before the Board, the author in that case had had access to counsel, had participated in an oral hearing with the assistance of an interpreter and had not justified how the proceedings amounted to a denial of justice. The State party notes that the same due process guarantees were applied in the present case.

6.5 In conclusion, the State party maintains that there is no basis for doubting, let alone setting aside, the assessment made by the Board in its decision of 23 June 2014. In this context, the State party draws the Committee's attention to the views adopted by the Human Rights Committee in its decision in the case of *P.T. v. Denmark*,[13] in which the Committee recalled its jurisprudence that important weight should be given to the assessment conducted by the State party, unless it is found that the evaluation was clearly arbitrary or amounted to a denial of justice, or provided substantial grounds to support the claim that the removal of the author to

[11] See European Court of Human Rights, *J.K. and others v. Sweden*, application No. 59166/12, decision of 4 June 2015.

[12] See Human Rights Committee, communication No. 2393/2014, *K. v. Denmark*, views adopted on 16 July 2015.

[13] See Human Rights Committee, communication No. 2272/2013, *P.T. v. Denmark*, views adopted on 1 April 2015, para. 7.3.

his country of origin would expose him to a real risk of irreparable harm, and that it is generally for the organs of State parties to the International Covenant on Civil and Political Rights to review or evaluate facts and evidence in order to determine whether such a risk exists.

6.6 The State party maintains that, in the present case, the author has failed to establish a prima facie case for the purposes of admissibility under article 4 (2) (c) of the Optional Protocol and that the communication is, therefore, manifestly ill-founded and should be considered inadmissible. If the Committee finds the communication admissible, the State party concludes that it has not been established that there are substantial grounds for believing that it would constitute a violation of the Convention to return the author to Somalia.

Issues and proceedings before the Committee

Consideration of admissibility

7.1 In accordance with rule 64 of its rules of procedure, the Committee must decide whether the communication is admissible under the Optional Protocol. Pursuant to rule 66, the Committee may decide to examine the admissibility of the communication together with its merits.

7.2 The Committee notes that the author claims to have exhausted domestic remedies and that the State party has not challenged the admissibility of the communication on that ground. The Committee observes that, according to the information available to it, decisions of the Refugee Appeals Board are not subject to appeal before national courts. Accordingly, the Committee considers that it is not precluded by the requirements of article 4 (1) of the Optional Protocol from examining the communication.

7.3 In accordance with article 4 (2) (a) of the Optional Protocol, the Committee is satisfied that the same matter has not been and is not being examined under another procedure of international investigation or settlement.

7.4 The Committee notes that the State party challenges the admissibility of the communication, in accordance with article 4 (2) (b), since the author is invoking articles of the International Covenant on Civil and Political Rights along with those of the Convention. The Committee further notes the author's concession that the articles of the International Covenant invoked are incompatible with the Convention and her request that these be disregarded for the purposes of the claims before the Committee. The Committee accordingly considers that all claims under the International Covenant are inadmissible as incompatible with the Convention, under article 4 (2) (b) of the Optional Protocol.

7.5 The Committee further notes that the State party challenges the admissibility of the communication, in accordance with article 4 (2) (c) of the Optional Protocol, on the grounds that the author's claims are manifestly ill-founded and not sufficiently substantiated. The Committee notes the author's claims that her deportation to Somalia would constitute a violation of articles 1, 2, 3, 5 and 16 of the Convention, read in conjunction with the Committee's general recommendation No. 19, based on the alleged risk of gender-based violence that the author would face if she were returned to Somalia, given that: she was previously a victim of violence at the hands of her husband's family, of which she claims to bear scars on her body; she would face the same treatment in the future if returned to Somalia by either the same family or members of Al-Shabaab, who had threatened her before her departure because her marriage was against the will of her father; the Somali security structure has broken down to the extent that there are not effective police forces or other authorities able to protect her. The Committee concludes on this

basis that the author has sufficiently substantiated her claims for the purposes of admissibility and that, since the arguments put forth by the State party are intimately linked to the merits of the case, it will proceed with its consideration of the merits.

Consideration of the merits

8.1 The Committee has considered the present communication in the light of all the information made available to it by the author and the State party, as provided for under article 7 (1) of the Optional Protocol.

8.2 The Committee observes that the author claims that she was persecuted by members of her husband's family, owing to their unhappiness with the relationship because of her lower caste, and that she suffered a serious physical attack in 2010 by members of his family in her home, during which she was stabbed and burned, and that members of the same family returned twice more and, on the last occasion, attempted to kill her, but instead killed her stepmother in a case of mistaken identity. The Committee further notes the author's claim that there was no option to report the matter to the police owing to the fact that the police force has no authority in southern Somalia, which is under the informal administration of village elders and ruled by Al-Shabaab. In addition, she claims that her father accepted a marriage proposal on her behalf from a member of Al-Shabaab, which she refused, marrying her fiancé at that point in secret. When this was discovered, members of Al-Shabaab distributed flyers in her village claiming that she had contravened sharia and should be handed over to them. The author fled Mogadishu, later hearing that her father had been kidnapped and killed by Al-Shabaab in response to the above events.

8.3 The Committee notes the State party's contention that the author has failed to substantiate that there are substantial grounds for believing that she is in danger of being subjected to serious gender-based violence if returned to Somalia, that her claims have been reviewed by the Danish immigration authorities, and that the latter found that the author would not risk persecution as set out in section 7 (1) of the Aliens Act or be in need of protection status as set out in section 7 (2) of the Act if she were returned to Somalia, that the author did not provide a credible account of the above events, that she did not explain fully the reasons for her marriage in secret, that she produced corroborating evidence from a witness who knew her father and a school certificate only later on in the asylum process, before the appeal hearing, and that a language analysis had determined that she did not come from southern Somalia as she had claimed.

8.4 The Committee also notes that the author stated that she had married in secret for love, had come into contact with persons who could corroborate her story only after her asylum application was in process, had produced those contacts as early as she could and had requested that they be verified by the State party and that a full medical exam be conducted to establish the scarring on her body and its likely origin, which would support her claims. The author also refers to the very detailed explanation that she gave of her village and the surrounding area, points to evidence that language tests have been found by experts to produce erroneous results and notes that the analyst did not have linguistic training.

8.5 The Committee also notes the State party's submission that it is under no obligation to undertake further investigation where the author's credibility with respect to the claim as a whole is in question and it is thought that the evidence would not change the assessment. Furthermore, the State party claims that the author has access to male protection in Somalia from her father and stepbrothers.

8.6 The Committee notes that, in substance, the author's claims are aimed at challenging the manner in which the State party's authorities assessed the

circumstances of her case, applied the provisions of national law and reached their conclusions. The Committee recalls that it is generally for the authorities of States parties to the Convention to evaluate the facts, evidence and the application of national law in a particular case,[14] unless it can be established that the evaluation was biased or based on gender stereotypes that constitute discrimination against women, was clearly arbitrary or amounted to a denial of justice.[15] The Committee notes that nothing on file demonstrates that the examination by the authorities of the author's claims concerning her fears as to the risks that she would face upon her return to Somalia suffered from any such defects. In that regard, the Committee notes the author's criticism that the national authorities disregarded the relevance of her statements, specific evidence and a witness statement in support of her claims.

8.7 Furthermore, taking into account the information provided by the parties, the Committee is of the view that there are inconsistencies in the author's statements, which undermine the credibility of her claim, including: (a) her decision to marry in secret, which was also proffered as an attempt to stop her from being forced to marry a member of Al-Shabaab; and (b) her statement that information regarding the teacher was offered only at the appeal stage because she had not been in touch with anyone from her home village until the proceedings were under way, which contrasts with her claim that she met the person who put her in touch with her teacher while she was in Greece, which was before she arrived in the State party. The Committee also notes inconsistencies in the account of her scarring, including that she was attacked at home, which contrasts with her account to the doctor who provided her with a referral to physiotherapy that she had been beaten on the street. Also, her account of the nature of the attack was noted to have changed during the asylum proceedings: she told the doctor that she had been beaten on both shoulders, whereas she claimed in her second interview that she had suffered "strikes to the heart" that still caused her discomfort. The Committee observes that the author failed to provide any further information or details in that respect. The attack in 2010 was brought up only later in the proceedings, which the author failed to properly explain. The authorities addressed all the arguments presented by the author during the proceedings and assessed her allegations concerning threats made by her husband's family members and Al-Shabaab, the evidence presented by her with respect to her origins in Somalia, including the statement by her witness and her school certificate, and her claims that she faced persecution and even being killed upon return to Somalia. After addressing all those components, however, the State party's authorities found that her story lacked credibility owing to inconsistencies and a lack of substantiation.

8.8 In the light of the foregoing, while not underestimating the concerns that may legitimately be expressed with regard to the general human rights situation in Somalia, in particular concerning women's rights, the Committee considers that nothing on file would permit it to conclude that the State party's authorities did not give sufficient consideration to the author's asylum claims. The Committee, therefore, cannot establish that the authorities of the State party conducted the examination of her asylum claim in such a manner as to constitute a violation of its obligations under the Convention.

9. Acting under article 7 (3) of the Optional Protocol, the Committee concludes that the author's asylum proceedings and the decision to proceed with her removal to Somalia did not constitute a breach of article 1, 2, 3, 5 or 16 of the Convention.

[14] See, for example, communication No. 34/2011, *R.P.B. v. Philippines*, views adopted on 21 February 2014, para. 7.5.

[15] See, for example, communication No. 62/2013, *N.Q. v. United Kingdom*, views adopted on 25 February 2016.